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**Reg. Civil Suit No. 301/2012.  
CNR NO.: MHKO07-000882-2012.**

**ORDER PASSED BELOW EXH.23**

This application is filed by plaintiffs under Order 6 Rule 17 of the Code of Civil Procedure seeking permission to carry out amendment in the plaint in respect of mense profit claimed by plaintiffs and stamp duty to that effect.

2. Plaintiffs in their plaint have demanded mense profit for 19.3.2011 till actual possession of suit property. However, according to plaintiffs mense profit can be demanded for previous three years only and, therefore, they want to amend plaint and claim mense profit for three years only, which comes to Rs.3,96,000/-. Therefore, now plaintiffs want to show valuation of suit as Rs. 3,97,200/- and he is ready to pay necessary stamp duty on the said relief. Hence, this application.

3. Defendants filed their say and opposed to allow this application contending that this application is filed by plaintiffs after objection raised by defendants to that effect. Said amendment is against the provisions of law. Therefore, prayed for rejection of application. However, if Court comes to conclusion that application is to be allowed in that case, they prayed to impose cost of Rs.5000/-

4. Heard both sides and gone through the record. It is necessary to mention here that in this suit yet trial is to be

commenced. Therefore, if proposed amendment is necessary for decision of suit, that can be allowed. Application for amendment is filed by plaintiffs in the year 2014. It appears that by way of amendment, plaintiffs are going to restrict their relief of mense profit for a period of three years only and ready to pay stamp duty on said relief. In such circumstances, no any loss or prejudice will cause to defendants, on the contrary they will get opportunity to submit their say and take cross-examination of plaintiffs. So also to lead evidence in support of their defence. Therefore, application can be allowed. So far as casual approach on the part of plaintiffs in drafting plaint is concerned, same can be balanced by imposing cost on him. Hence, following order.

**ORDER**

- (1) Application is allowed subject to cost of Rs.500/- payable by plaintiffs to defendants.
- (2) Plaintiffs shall carry out necessary amendment in plaint or or before next date and shall supply amended copy on record.
- (3) In case of failure to pay cost and carry out amendment, matter will proceed further without amendment.

Dt.: 01.12.2018.

**Sd/-**  
**( K.G. Sawant )**  
Civil Judge Senior Division,  
**Jaysingpur.**



